

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOKIA CORPORATION,

Plaintiff,

-against-

INTERDIGITAL, INC., INTERDIGITAL
COMMUNICATIONS, LLC, and
INTERDIGITAL TECHNOLOGY
CORPORATION,

Defendants.

Civil Action No. 08-CV-01507 (DAB)

**PLAINTIFF NOKIA CORPORATION'S OPPOSITION TO
INTERDIGITAL'S CROSS-MOTION TO DISMISS**

Plaintiff Nokia Corporation ("Nokia") responds to Defendants InterDigital, Inc., InterDigital Communications, LLC and InterDigital Technology Corporation's (collectively, "Defendants" or "InterDigital") Cross-Motion to Deny Nokia's Claim for Alternative Relief and Dismiss Nokia's Complaint as follows:


On March 21, 2008, this Court granted Counts I and II of Nokia's Complaint, and ordered that: i) Defendants be preliminarily enjoined from participating in the Section 337 Investigation currently pending before the International Trade Commission; and ii) Defendants are compelled to submit to arbitration for resolution of Nokia's TDD license defense. *See* Docket No. 39, Preliminary Injunction and Order Compelling Arbitration dated March 25, 2008; *see also* Transcript of March 21, 2008 Hearing before Judge Batts, p. 114. InterDigital has filed a Notice of Appeal indicating that they will appeal this Court's Order of March 25, 2008 to the Court of Appeals for the Federal

Circuit, although Nokia does not believe that the part of the Court's Order compelling arbitration is ripe for appeal. *See* Docket No. 40, Notice of Appeal; 9 U.S.C. § 16(b)(3).

While Nokia believes that it is premature to dismiss its request for alternative relief before the Court of Appeals for the Federal Circuit rules on InterDigital's appeal, because the Court granted Counts I and II of its Complaint, and since it appears that the dispute between the parties regarding Nokia's TDD license defense will thus be submitted for arbitration as required by the Master License Agreement and the TDD Development Agreement as a result of this Court's Order of March 25, 2008, Nokia does not oppose dismissal without prejudice of Count III of its Complaint (Declaratory Relief), at this time. However, in taking this position, Nokia expressly reserves all of its rights to litigate this claim should the Court's Order compelling InterDigital to submit to arbitration be reversed on appeal.

Dated: New York, New York
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